



3713

PTO/SB/21 (03-03)

Approved for use through 04/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/762,772	
	Filing Date	2/13/2001	
	First Named Inventor	Hideharu Ogawa	
	Art Unit	3713	
	Examiner Name	Nguyen, Kim T.	
Total Number of Pages in This Submission	16	Attorney Docket Number	30394-2

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to a Technology Center (TC)
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input checked="" type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	* Petition to Withdraw Holding of Abandonment, Copy of Response to Office Action, stamped postcard, and transmittal form filed 2/27/03, and return postcard.	

RECEIVED
AUG 26 2003
TC 3700 MAIL ROOM

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual	Mitchell P. Brook, Esq. (Reg. No. 32,967) Luce, Forward, Hamilton & Scripps LLP
Signature	
Date	August 19, 2003

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being deposited with the United States Postal Service via First Class Mail, addressed to: MS Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313, on this date: August 19, 2003			
Typed or printed	Sara R. Hart		
Signature		Date	August 19, 2003

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

12/2/03

Teresa

Please find enclosed a petition to withdraw holding of abandonment in view of the timely filing of an amendment, with a copy of the amendment attached to the petition. Please also find the originally filed amendment.

Typically, our policy has been for the SPE to deal with a late associated originally filed paper. What is done is that the SPE writes a letter indicating that the abandonment is vacated because of the original paper, and then the case is acted upon.

However, in this case, the amendment responds to a final rejection. This changes the analysis a bit; if the amendment doesn't satisfy 37 CFR 1.113 and 37 CFR 1.116, the mere timely filing of the paper doesn't save the case from abandonment.

Please have the examiner look at the amendment. If the amendment places the application in condition for allowance, so that it would have been entered after final and the case allowed (without any examiner's amendments), then please have the original paper entered, and the application passed to issue. The allowance should include a statement, signed by you, that the abandonment was vacated due to the late association of the March 4, 2003 paper, and the petition can be just given a paper # as a miscellaneous paper and endorsed as "moot."

If, however, the examiner feels that the amendment does not place the application in condition for allowance, please return the file to me with a note explaining briefly why. I will then do a decision dismissing the petition for Ms. Cross' signature.

Thanks,

Steve Marcus